

contacted the neighbors on either side of the proposed easement and they verbally concurred with converting the private drainage easement to a public utility easement.

Attorney Caponera stated that Mrs. Blais last appeared before the Commission without her attorney and there was a lot of discussion about how to get water lines into the property to comply with the Village Code. Attorney Caponera stated that he read a deed from 1971 that showed that the strip of land (access road) was not conveyed to the property in question at that time. Attorney Caponera stated that he has also discussed this with Engineer Laberge. Attorney Caponera stated that he also read the court stipulation titled "Life Church v. Moser", dated 1981, that stated that the 16 foot easement for the access road would expand to 21 feet. Mr. Thomas concurred with that statement. Attorney Caponera stated that Engineer Laberge and the Village Department of Public Works discussed running the water line off of Sand Creek Rd and agreed that it cannot be done unless the owners of the property give the ok. An alternative, plan B, was discussed where the converting the easement on Delafield Dr. would be converted to a public utility access easement. Attorney Caponera stated that he would like to see that private easement between the church and the neighbor to determine who owns the easement.

Engineer Laberge stated that the easement from the applicant's property to Delafield is an existing private drainage easement and not a village utility Easement. If used for a water main the applicant will need to present the design and verify that the bounds of the easement are suitable. The easement will need to be turned over to the village as a utility easement. Engineer Laberge indicated that the Village prefers not to have easements through private property where possible to make maintenance easier and avoid disruption to the residents. Chairman Dennis asked who has ownership of the access road easement. Mr. Thomas stated the neighbors, Mr. Szesnat. Attorney Caponera asked if the easements will be refiled. Mr. Thomas stated yes. Engineer Laberge stated that the Village prefers not to go through private property for the waterline so he would like to look at the proposal.

Attorney Caponera stated that he drove over to the site and noticed the picket fence that runs down the middle of the access road. Attorney Caponera stated that there is a fence line that he assumes is to the rear of Delafield. Mrs. Blais stated yes it is. Attorney Caponera asked if there was a survey done. Mrs. Blais stated that there was a survey performed by Hershberg and Hershberg that showed from fence to fence the road is 16.19 feet. Attorney Caponera asked what happens to the stipulation from 1981 as the Planning Commission wants to see an access road wide enough for 2 cars. Engineer Laberge stated that in his opinion, that can be done with the 20 feet.

Chairman Dennis asked if anyone from the audience would like to speak to this application. Mr. Charles Essipian who represents the Szesnat stood up and stated that he was involved in the recent transfer of property between Moser and Szesnat. Mr. Essipian stated that he disagrees with the statement that the Szesnat's have been uncooperative with the applicant, there has not been any written correspondence of any proposal, just a phone call. Mr. Essipian stated several issues he and his clients have:

1. The applicant has not exhausted all remedies for the proposed business and has not submitted any proposals in writing to the Szesnat's
2. The applicant has created a self-imposed hardship
3. The applicant does not own the access road

4. The church had an agreement with the Village that there was people to direct traffic during Sunday Service and this applicant is proposing a different type of business. The applicant is proposing a Monday – Friday business and every car going in and out of the property will have a child in the car. The site proposed emergency service issues as well as increased traffic to the neighboring parcels

Attorney Caponera stated that there is a recent area variance that was granted to the Church for the driveway width. In addition the Village Zoning Board granted the applicant a use variance in December 2018 and the time to appeal that decision has expired. Attorney Caponera stated that the hydrant was the issue. Attorney Caponera asked Mr. Essipian if he read the stipulation. Mr. Essipian stated that he has not looked at it recently but he will revisit the stipulation and the site soon. Mr. Essipian stated that he is aware of the picket fence running down the access road.

Chairman Dennis stated that Attorney Caponera will need clarification of ownership of the neighboring parcels and access road. Attorney Caponera stated that the Commission cannot act on this application today due to clarification needed on a few things. Engineer Laberge stated that the site map needs to be updated for correct ownerships and change in waterline. Engineer Laberge added that the Department of Health does not need to review this project based on the size of the project. Attorney Caponera stated that he will need to review the hydrant easement and determine whether or not the fence can be moved to accommodate the 21 foot wide access road.

Chairman Dennis stated that this is a site review and when all information is in the application will be revisited. Chairman Dennis asked if there will be any proposed lighting on the access road. Mrs. Blais stated that there currently is lighting on the access road. Chairman Dennis stated that if the roadway is to be paved to 21 feet then he is not sure if the lighting will have to be redesigned, and he asked for more clarification on that.

The applicant will come back to the Commission at a later date.

APPLICATION:

**29 – 31 FERMAC STREET
VISION PLANNING CONSULTANTS
(Subdivision & site plan review)**

Mr. Ted DeLucia from Vision Planning Consultants and Mr. Chris Meyer from OJ Meyer, land surveyors, came before the Commission to provide updates on the ongoing application for 29 – 31 Fermac Street. Mr. DeLucia stated that he was sorry that Mr. Costa needed to leave the meeting early and could not be present to provide comments on this project. Mr. DeLucia stated that this application has been back and forth in front of the ZBA and Planning Commission, most recently at the public hearings for the proposed subdivision and special permit applications for two duplexes. Mr. DeLucia stated that landscaping has been added to the site plan including low level landscaping and buffers to the surrounding parcels. Engineer Laberge stated that at the public hearing Mrs. Pendas was given the option of a fence or landscaping for buffering and privacy, however the site plan shows both landscaping and a fence. Engineer Laberge requested that Mr. DeLucia contact the neighbors and determine if they want a fence or landscaping and indicate that on the site plan. Engineer Laberge read aloud his review letter dated May 2, 2019. Mr. Meyer stated that the applicant was receiving conflicting guidance from Engineer Laberge and the Village

DPW regarding the water lines coming in and out of the proposed parcels. Mr. Meyer asked for clarification. Engineer Laberge stated that he will speak to Mr. Les Decker and send an email determining what will be required for the water service.

Attorney Caponera stated that the street easement needs to be provided and deeded to the Village. Attorney Caponera stated that the access, drainage and restrictive easements have not been provided yet. Mr. Meyer stated that the sewer easement will be converted into a utility easement and deeded to the Village. Attorney Caponera stated that he received the description of lands to be conveyed to the Village since there is a part of Fermac Street that the Village does not own. Attorney Caponera stated that the utility easement will need to be conveyed to the Village. In addition, an easement granting adjoining neighbor right for access to the common driveway needs to be provided. Attorney Caponera provided Mr. Meyer with an example of an adjoining easement showing the required language.

Chairman Dennis opened the floor for any comment on this project. Mr. William Pierce, resident at 2 Fermac Street stated that he does support this project because it will depreciate his house and increase traffic just like when Walgreen's went in across the street. Mr. Pierce stated that there is no "dead end" sign on the street and many people think it is a thru street. Chairman Dennis stated that he also lives on a dead end street so he understands Mr. Pierce's concerns.

Ms. Peggy Benot from the Town of Colonie stated that this project has been discussed for years and the father of the property is now deceased and the family is trying to sell the land. Ms. Benot stated that traffic is busy on Central Ave and will continue to be busy; Colonie is a busy area in general.

Chairman Dennis stated that more information is needed and he would like to see a copy of the existing sanitary sewer easement to Rt. 155. Chairman Dennis stated that the additional utility easement will need to go the DPW for review. Engineer Laberge stated that there was an email send to Coordinator Hart dated May 7th from the Albany County Planning Board providing some comment on the proposed project and the applicant will need to adjust for the County.

Commissioner Martin stated that the applicant should contact the property owner adjacent to the proposed project and have them state whether they wanted landscaping or a fence to separate the properties and reflect that decision on the final plan. Attorney Caponera asked who will be preparing the easement and deed documents for review. Mr. Meyer stated the Sneeringer office will be preparing the documents. Attorney Caponera asked that Sneeringer's office make the utility easement recordable as well as the deed of Fermac to the Village.

APPLICANT:

**16 JUPITER LANE
JOHNSON CONTROLS
(Change of Occupancy)**

Mr. Elliot Feinman, property owner, appeared before the Commission to present a change of occupancy at 16 Jupiter Lane. Mr. Feinman stated that Johnson Controls is looking to move into the tenant space where Meerkat previously was. Chairman Dennis asked Mr. Feinman to clarify where 14 Jupiter is in relation to the other buildings. Mr. Feinman stated that 12 Jupiter is on the

north side, 14 Jupiter is in the middle and 16 Jupiter is on the south end. Chairman Dennis asked for future submissions that the buildings be labeled on the site plan. Mr. Feinman agreed.

Commissioner Hart asked if the applicant was present. Mr. Feinman stated no. Commissioner Martin asked if Johnson Controls was moving their whole operation to this location. Mr. Feinman stated no, only their security division is relocating from Winner's Circle where they currently are. Commissioner Martin asked what kind of trucks are involved in this business operation. Mr. Feinman stated that they are take home pick-up trucks or service vans.

Chairman Dennis stated that the previously approved site plan for this site shows an 18 foot access roadway to 10 Jupiter Lane, however the proposed roadway was never done. Mr. Feinman acknowledged the roadway exists. Engineer Laberge stated that the roadway is an emergency access easement and is not currently paved.

Commissioner Martin made a motion to approve Johnson Controls at 16 Jupiter Lane. Commissioner Tommaney seconded the motion.

VOTE: Unanimous to approve the application as presented.

APPLICATION:

**1692 CENTRAL AVE
THERAPEUTIC WAVE CENTER
(Change of Occupancy)**

Mr. Robert Duff came before the Commission to present an application for a change of occupancy at 1692 Central Ave. Mr. Duff stated that he is the current owner of the Salt Den in Latham. Mr. Duff stated that the Therapeutic Wave Center is holistic machine that has acoustic wave sound to help repair cells in the body. Chairman Dennis asked where 1692 Central Ave is located. Mr. Duff explained that it is the building next to the Albany Chiropractic Center and there is an orthopedic doctor in 1692 Central Ave, the doctor is also the landlord. Commissioner Hart asked if the landlord was present. Mr. Duff stated no. Commissioner Martin asked if this is an existing business. Mr. Duff stated no, it is similar to the Himalayan Salt Den, however this will be the first wave center in the area.

Commissioner Martin asked how many people are in each session. Mr. Duff stated that there are 6-8 people allowed in a session at one time. There will be a sitting room with reclining chairs around the wave machine. The wave machine produces sound from speakers in water at low frequency. Each session is 60 minutes. Commissioner Martin asked if the parking requirements would be similar to a hair salon, with people in a session, people waiting and people leaving. Engineer Laberge stated that the parking would be based off of the use.

Commissioner Hart asked how many employees will there be. Mr. Duff stated 2 employees, however they will not be working at the same time. Mr. Duff explained that each session will likely be 50 minutes, leaving 10 minutes for people to leave and new people to come in for the next sessions. The sessions will not run concurrently. Mr. Duff stated that other studios in Las Vegas and Arizona run at about 25-50% capacity, therefore a full class although wanted, will not be likely. Commissioner Hart stated that potentially there will be 16 people in this tenant space at one

time, plus 2 employees therefore the required parking is 18 spaces, not 10 as written on the change of occupancy application. Mr. Duff stated that there will realistically only be 2-4 people in each session. Engineer Laberge stated that 18 of 34 parking spaces is acceptable for this site. Commissioner Hart stated that according the parking requirement list and the site plan, there are only 30 parking spaces. Commissioner Hart asked if there are any vacant tenant spaces in this building. Mr. Duff stated yes. Chairman Dennis stated that he does not see an issue with the parking for the application before the Commission.

Commissioner Martin made a motion to approve the Therapeutic Wave Center at 1692 Central Ave. Commissioner Tommaney seconded the motion.

VOTE: The application was approved as presented.

APPLICANT:

**1702A CENTRAL AVE
JOEL ABELOVE LAW
(Change of Occupancy)**

Mr. Joel Abelove was present before the Commission to seek approval for a change of occupancy at 1702A Central Ave. Mr. Abelove stated that he proposed to open a law firm in the former tattoo parlor space, Mr. Abelove provided a picture of the tenant space for the Commission. Mr. Abelove stated that he will be the only employee. Commissioner Martin asked if he will have any law clerks or secretaries. Mr. Abelove stated no. Commissioner Hart asked if the landlord is present. Mr. Abelove stated no.

Commissioner Martin made a motion to approve Joel Abelove Law at 1702A Central Ave. Commissioner Hart seconded the motion.

VOTE: Unanimous to approve the application as presented.

Commissioner Martin made a motion to adjourn the motion. Commissioner Hart seconded the motion.

VOTE: Unanimous to adjourn the meeting at 7:34 p.m.

Respectfully Submitted,



Alexandra M. Hart
Planning Coordinator
Village of Colonie